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SIPDIS

STATE FOR AF/W, AND INR

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SUBJECT: NIGERIA: BUHARI SUPPORTS CONSTITUTION IN EVENT OF  
POWER TRANSFER

Classified By: Ambassador Robin R. Sanders for reasons 1.4. (b & d).

11. (C) SUMMARY: PolCouns and PolOff (notetaker) traveled to Kaduna to meet with former Head of State General Muhammudu Buhari on November 26. Buhari conveyed his optimism to PolCouns about his legal case before the Supreme Court, which seeks to annul the 2007 presidential election. He reiterated the failure of the Independent National Electoral Commission (INEC), under the leadership of its current Chair, Maurice Iwu, which he hoped would be reflected in a favorable Supreme Court ruling, and was confident that he could galvanize widespread popular support during the three-months allowed under the constitution for a rerun of the election. When asked for his perspective on possible successors if Yar'Adua was unable to continue as President due to ill health, Buhari affirmed his faith in the rule of law and the constitution, which meant that, in such a situation, VP Jonathan should be accepted as President. Buhari also reiterated his "deep appreciation" to the USG for its support for free and fair elections, but asserted that Nigeria's future will be determined only by Nigerians and the level of sacrifice they are willing and able to make for the sake of democracy. END SUMMARY.

12. (C) According to Buhari, his legal team presented a strong case to the Supreme Court, which drew upon the inconsistencies and contradictions of INEC's announced election results and highlighted violations of the constitution and the electoral act. He pointed to evidence that in some states elections did not even occur. Buhari also concluded that conditions made it impossible for voter turnout to reach more than 30 percent (Note: INEC claimed nearly 60 percent). Buhari told PolCouns that there was no indication when the Supreme Court would make its ruling, suggesting that "it is now in the hands of the judges to determine the integrity of the constitution."

13. (C) In the event that the 2007 elections are annulled, Buhari told PolCouns that he "expects the Supreme Court to suggest the removal of INEC Commissioner Iwu in its ruling." Buhari also upheld that his political structure "stands ready" to galvanize voter support, a process made easier by the fact that the candidates chosen for the 2007 elections will remain the same. He acknowledged, however, that if President Yar'Adua were not able to stand for health reasons, the PDP would be entitled to replace him. Buhari added that "the real challenge will be for INEC, not the candidates or their parties, as INEC is responsible for successfully holding new elections within the three months allowed by the

constitution."

¶4. (C) On the possibility that Yar'Adua might be unable to complete his term due to ill health, Buhari revealed that he had been telling other northern leaders that "no extra-constitutional measures should be taken and that the rule of law should be followed" (i.e., that VP Goodluck Jonathan should take over as President). He said any other course would violate the constitution, which "would go against everything" he is standing for with his current appeal before the Supreme Court. Buhari then concluded that making progress on the issues of poverty, health, and development should trump the informal North-South rotation of the presidency. "Ultimately, it is a question of who can better solve Nigeria's most pressing problems," he said.

¶5. (C) COMMENT: Buhari made clear the only options he supports favor the rule of law. He may be calculating, however, that this tack presents the best argument to northern elites for annulling the elections, as Vice President Jonathan would be slated to take the reigns from the ailing President if the elections are upheld. Buhari has invested (once again) considerable time, money, and energy into his Supreme Court case, and it is clear he expects a high-yielding return. End comment.

¶6. (U) This cable coordinated with Consulate Lagos.  
Sanders